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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,112	10/04/2001	Gerald Dorros	AMS-011C	4384
7590 11/10/2004			EXAMINER	
NICOLA A. PISANO LUCE, FORWARD, HAMILTON AND SCRIPPS 11988 EL CAMINO REAL, SUITE 200 SAN DIEGO, CA 92130			NGUYEN, VI X	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/972,112

Applicant(s)

DORROS ET AL.

Examiner

Victor X Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 22-35 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4, 21, 24, 31 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-9, 22, 23, 25-30, 32, 33 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. This application contains claims 3-4, 21, 24, 31 and 34 drawn to non-elected inventions. In 9/23/2004, applicant elected to prosecute Species VI that associated with fig. 9a **without traverse**. Furthermore, Applicant has stated that all claims 1-9 and 22-35 read upon the elected species. However, claims 3-4, 21, 24, 31 and 34 do not read upon the elected species. Therefore, non-elected claims 3-4, 21, 24, 31 and 34 are withdrawn from further consideration.

The requirement is deemed proper and is therefore made **Final**.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 25, in line 7, "a ring" lacks antecedent basis.

Claim 35, in line 8, "a ring" lacks antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

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patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 7-9, 26-27 and 30 are rejected under 35 U.S.C. 102 (b) as being anticipated by Schnepf-Pesch et al (U.S. 5,158,564).

Schnepf-Pesch et al disclose in fig. 2, a medical instrument for treating a vascular occlusions having the limitations as recited in the above listed claims 1-2 and 26-27, including: a thrombectomy wire (21), at least one deployable wire (2) which is capable of substantially flush with the thrombectomy wire when the segment 2 will be straightened out on the same plane with the wire (21), a handle (fig. 4) and the deployable wire coupled to the thrombectomy wire so that rotation of the thrombectomy wire is transmitted to the deployable wire. Note: Regarding the intended use of the deployable wire to engage fibrin strands of the occlusion and further to prevent relative rotation between the proximal and distal ends of the deployable wire which has been carefully considered but deemed not to impose any structural limitations on the claims patentably distinguishable over the device of Schnepf-Pesch et al. In the instant case the deployable wire of Schnepf-Pesch et al would have been capable of performing the use as claimed.

Regarding claims 7-9 and 30, Schnepf-Pesch et al disclose in fig. 2, where the deployable wire comprises a plurality of arrow-shaped wires (3,4) which connect to the thrombectomy wire (21).

Claims 1-2, 5-6, 22-23, 25-29, 32-33 and 35 are rejected under 35 U.S.C. 102 (e) as being anticipated by Jenkins et al (U.S. 6,613,046).

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Jenkins et al disclose in fig. 3, a medical instrument for treating a vascular occlusions having the limitations as recited in the above listed claims 1-2 and 26-27, including: a thrombectomy wire (24), at least one deployable wire (12) which is capable of substantially flush with the thrombectomy wire when the segment 12 will be straightened out on the same plane with the wire (24), a handle (38) and the deployable wire coupled to the thrombectomy wire so that rotation of the thrombectomy wire is transmitted to the deployable wire. Note: Regarding the intended use of the deployable wire to engage fibrin strands of the occlusion and further to prevent relative rotation between the proximal and distal ends of the deployable wire which has been carefully considered but deemed not to impose any structural limitations on the claims patentably distinguishable over the device of Jenkins et al. In the instant case the deployable wire of Jenkins et al would have been capable of performing the use as claimed.

Regarding claims 5-6 and 28-29, Jenkins et al disclose the distal end of the deployable wire (12) is affixed to the thrombectomy wire and the proximal end of the deployable wire is affixed to a sliding member (42), and where the deployable wire comprises at least one loop (fig. 17) that surrounds the thrombectomy wire in the deployed state.

Regarding claims 22-23, 25, 32-33 and 35, Jenkins et al disclose the device further has a threaded groove (56), a rotational member (22) configured to rotate within the groove, where the device further comprises a thumb ring (42) to translate a force to the rotational member to advance the rotational member within the groove.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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U.S. Pat. No. 4,646,736 to Auth

U.S. Pat. No. 4,273,128 to Lary

U.S. Pat. No. 6,348,056 to Bates

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (571) 272-4699.

The examiner can normally be reached on M-F (8-4.30 P.M).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen
Examiner
Art Unit 3731

Vn VN
11/05/2004



JULIAN W. WOO
PRIMARY EXAMINER